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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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Review of the Commission's ) MM Docket No. 98-204  
Broadcast and Cable )  
Equal Employment Opportunity )  
Rules and Policies )  
and )  
Termination of the ) MM Docket No. 96-16  
EEO Streamlining Proceeding )  
  
To: The Commission

**COMMENTS OF THE NEW JERSEY BROADCASTERS ASSOCIATION**

The New Jersey Broadcasters Association, by its attorneys, pursuant to Notice of Proposed Rulemaking, FCC 98-305, MM Docket No. 98-204, released November 20, 1998, hereby submits its Comments with respect to the Commission's proposed adoption of new Equal Employment Opportunity ("EEO") Rules.<sup>1/</sup>

1. The FCC is proposing in its new EEO Rules a paperwork/documentation approach toward its goal of obtaining more minority and female employment in the broadcasting industry. For the reasons below, the New Jersey Broadcasters Association believes that the FCC's approach is counter-productive. Accordingly, the New Jersey Broadcasters Association supports the EEO proposal being put forth by the 42 state broadcasters associations. Succinctly put, the state broadcasters associations are proposing an EEO outreach program based upon the posting of job vacancy

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<sup>1/</sup> These comments are timely filed. Order, DA 99-326, MM Docket Nos. 98-204 and 96-16, released February 12, 1999, extended the comment date to March 1, 1999.

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information on state broadcasters association Web sites that will provide the widest timely dispersion of broadcast station job vacancy information possible to as many persons as possible. These Web sites will make available notices of broadcast station job openings throughout the country to people of all races and genders.<sup>2/</sup>

2. The Commission's proposed EEO Rules are simply counter-productive to the Commission's goal of increasing minority and female employment in the broadcasting industry. Under the Commission's proposed EEO rules (as under its previous EEO rules), the first contact a potential employee has with a broadcast station is instantly marred by a request from the station for the applicant to identify his or her race and gender. This initial inquiry is often perceived by job applicants as repugnant and offensive. Members of the New Jersey Broadcasters Association have interviewed hundreds of broadcast station job applicants. Time and time again, job applicants have expressed a dismay and disgust at being asked for their race and gender at the same time they are applying for a position at a broadcast station. The personnel of broadcast stations likewise feel uncomfortable about having to ask such questions. Job applicants simply do not believe that the race and gender inquiry is

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<sup>2/</sup> The New Jersey Broadcasters Association presently has such a Web site. Commencing March 8, 1999, stations will be able to post their job vacancies free of charge so that all applicants will have access to broadcast station job vacancies in New Jersey.

required by Federal government regulations. Instead, it appears to the job applicant that the selection of the person to fill a vacancy will be based in part on the person's skin color and sex. Why else would a potential employer ask such questions? The Commission must remember that job applicants are members of the lay public who are generally unaware of the intricacies and nuances of Federal agency regulations, particularly when the common understanding among job applicants is that it is illegal for employers to make inquiries about race, gender, national origin, marital status, age, children, and the like.

3. The best approach toward the Commission's goal in this proceeding is to provide the widest timely dispersion of broadcast station job vacancy information possible to as many persons as possible. The most efficient and reasonable method to accomplish this goal is to require broadcast stations to post substantially all job vacancies (at least two-thirds of all vacancies) on a state association Web site, or a similar Web site that exists for the purpose of disseminating broadcast station job vacancy information.<sup>3/</sup> A posting of job vacancy information on

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<sup>3/</sup> The New Jersey Broadcasters Association can understand the Commission's reluctance to specify any particular organization's Web site upon which a station must post job vacancy information in order to be in compliance with the Commission's Rules. The beauty of the Internet and the Web, however, is that any Web site, so long as it is not restricted to subscribers, is available to anyone with access to the Internet anywhere in the country.

such a Web site should be considered prima facie evidence of a station's compliance with the Commission's EEO Rules.

4. Internet access is now pervasive, a big change from just several years ago. For those who would maintain that the use of the Internet to distribute job vacancy information unfairly leaves out job applicants in inner city, rural and poor areas, the Commission should note that the typical qualified job applicant for a broadcast station position of any race or gender will be a person who is now working in another position, attending school, or recently graduated from school, as most broadcast station positions are career positions. Persons in each of these categories frequently have access to the Internet, either through computers at their present position, or through the career services office of their school. Most public libraries now have Internet access available. Employment agencies and organizations will hopefully see the utility of providing Internet access to broadcast employment web sites for job seekers directly, or printing job vacancy information from the Web, and posting and distributing a hard copies.

5. Requiring broadcast stations to gather and document information on each job applicant's race and gender at the time of application for employment is the fatal flaw in the Commission's proposed approach to EEO. To have the most diverse workforce possible working at broadcast stations, both the Commission's and stations' goal should be the largest possible pool of

qualified applicants. Instead of working toward this goal, the Commission's proposed EEO approach of requiring an inquiry into the race and gender of each applicant will have (and has had) the potential to discourage people from pursuing a position in the broadcasting industry.

6. The FCC additionally should try to avoid at all costs a reimposition of the EEO paperwork and documentation burden on broadcasters as this too is counterproductive to the FCC's goal. Few employers, including the Federal government, have a paper trail of the source from which each job applicant comes. Yet, broadcast stations under the proposed EEO Rules are expected to keep full documentation on the source of each job applicant. This does not serve the goal of a wide timely dispersion of job vacancy information. It may in fact encourage a more narrow dispersion of job vacancy information since the broadcast stations' paperwork documentation burden will lessen with fewer applicants under the Commission's proposed EEO Rules.

7. Accordingly, the New Jersey Broadcasters Association supports the widest timely dispersion of broadcast station job vacancy information by requiring that broadcast stations post job vacancy announcements on their state broadcasters association Web site, or another Web site that is open to the public for the purpose of disseminating broadcast station job vacancy information. Provided that a broadcast station posts a substantial number of its job vacancies (two-thirds or more) in such a

manner, the FCC should find that the broadcast station has as a prima facie matter has complied with its EEO Rules.

Respectfully Submitted,

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